

ORTIZ & ORTIZ, L.L.P.
32-72 Steinway Street, Ste. 402
Astoria, New York 11103
Norma E. Ortiz, Esq.
Tel. (718) 522-1117
Fax. (718) 596-1302
email@ortizandortiz.com
Counsel to the Debtor

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In re:

Case No.: 17-11542-mg

JOE'S PLACE OF THE BRONX, NY, INC.,

Debtor.

Chapter 11

-----X

**DEBTORS' EX PARTE MOTION FOR AN ORDER FIXING METHOD OF
SERVICE AND SHORTENING NOTICE PERIOD OF THE DEBTORS' MOTION
FOR AN ORDER DESIGNATING AIDA TORRES AS A RESPONSIBLE PERSON
PURSUANT FED. R. BANKR. PROC. 9001(5) AND FOR RELATED RELIEF**

TO: THE HONORABLE MARTIN GLENN,
UNITED STATES BANKRUPTCY JUDGE:

Joe's Place of The Bronx, NY, Inc. (the "Debtor"), by and through its undersigned counsel, by and through its Ortiz & Ortiz, L.L.P., hereby moves under 11 U.S.C. § 105(a), Federal Rule of Bankruptcy Procedure Rule 9006(c), and Rule 9077-1 of the Local Bankruptcy Rules for the Southern District of New York ("Local Rules"), for the entry of an order shortening the notice period and fixing method of service of the Debtors' Motion for an Order Pursuant to Sections 105(a) and Fed. Rule Bankr. Proc. 9001 Designating Aida Torres as a Responsible Person to act on the Debtor's Behalf (the "Motion"). In support, the Debtors state as follows:

Background

1. The Debtor filed a voluntary chapter 11 petition on June 2, 2017 (the "Petition

Date”).

2. The Debtor operates a restaurant located at 1841 Westchester Avenue, Bronx, NY 10472 (the “Restaurant”).

3. The Debtor’s sole shareholder and sole officer passed away on or about April 17, 2020. The Restaurant is closed and there is no one with the legal authority to act on the Debtor’s behalf.

4. The Debtor seeks a shortened hearing period on the Motion because the estate property must be secured and the Debtor’s case must be wound down as soon as possible. The delay in winding down the Debtor’s affairs is harmful to the Debtor’s creditors because liabilities continue to accrue on the Debtor’s post-petition obligations.

Relief Requested

5. The Debtor requests that the Court shorten the notice period required for the Motion to permit a hearing on the Motion on April 30, 2020. The Court has scheduled a hearing on confirmation of the Debtor’s plan of reorganization on that day.

6. Local Rule 9006-1 provides in relevant part that Motions should be brought on 14 days notice unless provide otherwise in the Federal Rules of Bankruptcy Procedure or as otherwise ordered by the court. In addition, Bankruptcy Code section 105(a) provides that the Court, “may issue an order . . . necessary or appropriate to carry out the provisions of [the Bankruptcy Code.] 11 U.S.C. § 105(a).

7. Because of the time-sensitive nature of the Motion, the Debtor requests that the Court enter an order permitting a hearing on the Motion on April 30, 2020. The Debtor also requests that the Court permit the undersigned to limit notice and permit email service upon the

following parties: The U.S. Trustee, the Debtor's Landlord's bankruptcy and landlord counsel, N.Y.S. Department of Taxation and Finance, Divorce Counsel to Joe Torres's spouse, the Debtor's daughter Emmy Dubarek, all parties that have filed a Notice of Appearance, and all creditors that have filed a proof of claim and have provided an email address for communication. The undersigned's office is closed as a non-essential business and mailing notice to all creditors would have to be performed by a third party. Because of the emergent nature of the request, and the likelihood that the request will not be contested, the undersigned submits that such notice is reasonable and adequate under the circumstances.

12. No previous application for relief requested herein has been made to this or any other court.

WHEREFORE, the Debtor respectfully requests that the Court grant the relief requested herein and grant such other and further relief as is just.

Dated: New Paltz, New York
April 23, 2020

/s/Norma E. Ortiz
Norma E. Ortiz, Esq.
Ortiz & Ortiz, L.L.P.
32-72 Steinway Street, Ste. 402
Astoria, NY 11103
Tel. (718) 522-1117
Counsel to the Debtor

DECLARATION OF NORMA E. ORTIZ

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In re:

Case No.: 17-11542-mg

JOE'S PLACE OF THE BRONX, NY, INC.,

Debtor.

Chapter 11

-----X

BANKR. E.D.N.Y. LOCAL RULE 9077-1 DECLARATION

Norma E. Ortiz, a partner of Ortiz & Ortiz, L.L.P., counsel to the above-captioned Debtor, hereby declares as follows:

1. As set forth in greater detail in the accompanying Motion to Designate Aida Torres as a Responsible Person, Joe Torres, the sole shareholder of the Debtor and the only person authorized to act on the Debtor's behalf, has passed away. I can not take any action on the Debtor's behalf unless someone is appointed to authorize me to, among other things, negotiate a surrender of the space to the Debtor's landlord and move to dismiss the case. I have explored seeking the appointment of someone through the Surrogate's Court, but have determined it will take too long because of the court's closure. I also do not believe that the Debtor's assets are part of Joe Torres' estate.

2. My office has been closed since all non-essential businesses have been closed. I am able to perform services virtually. However, service by mail remains a challenge. I can serve by mail through a third-party, such as certificateofservice.com, but I believe, under the circumstances of this case, that email to the parties I listed in the attached motion would reach them sooner. Moreover, there has been virtually no creditor participation in this case for the last three years: only the Landlord and N.Y.State have appeared and participated. Despite writing and emailing creditors to request that they vote on the Debtor's plan of reorganization, only one unsecured

creditor responded and accepted the plan.

3. For these reasons, I request that the Court grant the request to shorten time and limit notice and authorize service by email.

I swear under the penalty of perjury that the foregoing is true and accurate.

Dated: New Paltz, New York
April 23, 2020

/s/Norma E. Ortiz
Norma E. Ortiz
Ortiz & Ortiz, L.L.P.
32-72 Steinway Street, Ste. 402
Astoria, NY 11103
Tel. (718) 522-1117

Proposed Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In re:

Case No.: 17-11542-mg

JOE'S PLACE OF THE BRONX, NY, INC.,

Debtor.

Chapter 11

-----X

**ORDER FIXING METHOD OF SERVICE AND SHORTENING NOTICE PERIOD OF
DEBTORS' MOTION FOR AN ORDER DESIGNATING AIDA TORRES AS A
RESPONSIBLE PERSON PURSUANT FED. R. BANKR. PROC. 9001(5) AND FOR
RELATED RELIEF**

Upon the Debtor's Motion for an Order Fixing Method of Service and Shortening Notice Period of the Motion for an Order Designating Aida Torres as a Responsible Person (the "Motion"), by its counsel Ortiz & Ortiz LLP, and the supporting Declaration of Norma E. Ortiz; and it appearing that good cause exists under Local Bankruptcy Rule 9077-1 for shortening the notice requirements for the Motion and limiting service to email to the parties on the annexed proposed service list; it is hereby

ORDERED, that the Motion to Shorten Time is hereby granted to the extent provided herein; and it is further

ORDERED, that notice of the Motion is hereby shortened and limited as provided herein; and it is further

ORDERED, that by April __, 2020, the Debtor shall serve the Motion and supporting documents and this Order by electronic mail to the parties on the annexed service list. Such notice shall constitute good and sufficient notice; and it is further

ORDERED, that objections, if any, to the Motion shall be filed by April __, 2020; and it is further

ORDERED, that a hearing on the Motion shall be held telephonically on April 30, 2020, at _____. Any party interested in appearing telephonically at the hearing must contact the Chambers of the Hon. Martin Glenn for instructions on appearing telephonically no later than 48 hours before the scheduled appearance.

Dated: April __, 2020
New York, New York

HON. MARTIN GLENN
U.S. BANKRUPTCY JUDGE

Service List

JOE'S PLACE OF THE BRONX, NY, INC.
Approved Service List

| Creditor | Method of Service | Creditor | Method of Service |
|--|------------------------------------|---|---------------------------|
| Enid Nagler Stuart, Esq., Attorney General for the State of N.Y. 120 Broadway, 24 th Flr. New York, New York 10271 | EMAIL | Nestor Rosado, Esq. Divorce Counsel to Jose Torres's Spouse neslaw2@msn.com | Email |
| American Express Becket & Lee PO Box 3001 Malverne, PA 19355-0701 | EMAIL | N.Y.S. Dept. of Labor State Office Campus, Building #12 Room #256 Albany, NY 12240 | Fax to (518) 457-9378 |
| I.R.S. Centralized Insolvency Operation Post Office Box 7346 Philadelphia, PA 19101-7346 | Fax 855 260 6645 | New York Wine & Spirits 10 Dunnigan Drive Suffern, NY 10901 (Same as Manhattan Wine) | None |
| Manhattan Beer Dist. LLC Manhattan Beer Dist. 955 149 th Street Bronx, NY 10455 | Fax (718) 292-6348 | U.S. Trustee's Office 201 Varick Street New York, NY 10014 | EMAIL |
| Rick A. Steinberg, Esq. Price, Meese, Shulman & D'Arminio, P.C. 50 Tice Boulevard, Suite 380 Woodcliff Lake, NJ 07677 | E-MAIL | R. Yonks, & Associates, Inc. c/o Kevin A. Stevens, P.C. 98 Lafayette Avenue Suffern, NY 10901 kevin@kstevenslaw.com | EMAIL |
| NYC Department of Finance Tax, Audit and Enforcement Division 345 Adams Street, 10 th Floor Brooklyn, NY 11201 | None Fax or email not available | STERLING NAT'L BANK c/o Wilson Elser 1133 Westchester Avenue White Plains, NY 10604 david.tillem@wilsonelser.com | MAIL |
| Jonathan Katz, Esq. Landlord-Tenant Counsel to the Landlord jonathan@jkskatz.law | Email | | MAIL |